

Office of the  
CLARK COUNTY LAND USE HEARING EXAMINER

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**NOTICE TO PARTIES OF RECORD**

**Project Name: MO HOLLOW TIER II INFILL SUBDIVISION**

**Case Number: PLD2009-00007; SEP2009-00010; GEO2009-00002**

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6<sup>th</sup> floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **May 19, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:  
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:  
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:  
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$303**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **May 5, 2009**

IO HOLLOW TIER II INFILL SUBDIVISION  
LD2009-00007; SEP2009-00010; GEO2009-00002  
HEARING DATE:4/23/09

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OA II: ROSIE HSIAO

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**MO HOLLOW TIER II INFILL SUBDIVISION**  
PLD2009-00007; SEP2009-00010;  
GEO2009-00002  
HEARING DATE:4/23/09

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**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for preliminary plat approval of a 21-lot Tier II infill residential Subdivision on approximately 2.5 acres zoned R1-6 in unincorporated Clark County, Washington.

**FINAL ORDER**

**Mo Hollow Infill Subdivision  
PLD2009-00007, SEP2009-00010,  
EVR2009-00015 & GEO2009-00002**

**I. Summary:**

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for preliminary plat, road modification and related approvals for the Mo Hollow Tier II Infill Subdivision (PLD2009-00007, SEP2009-00010, EVR2009-00015 & GEO2009-00002) – a 21-lot residential infill subdivision on approximately 2.5 acres zoned R1-6.

**II. Introduction to the Property and Application:**

**Owner** ..... Troy Johns  
14801 NE 13<sup>th</sup> Circle  
Vancouver, WA 98684

**Contact** ..... Minister & Glaeser Surveying  
Attn: David Rosenberger  
2200 E. Evergreen Blvd  
Vancouver, WA 98661

**Property** ..... Legal Description: Tax Lot 30 (parcel number 189774) in the northeast quarter of Section 36, Township 3 North, Range 1 East of the Willamette Meridian. Street Address: 4407 NE 114<sup>th</sup> Street.

**Applicable Laws** ..... RCW 58.17 and Clark County Code (CCC) Title 15 (Fire Prevention), 40.220.010 (Single-family Residential), 40.260.110 (Infill), 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.380 (Stormwater & Erosion Control), 40.500 & 40.510 (Procedures), 40.540 (Land Division), 40.570 (SEPA), 40.570 (SEPA Archaeological), 40.610 (Impact Fees), 24 (Public Health), RCW 58.17, and the Clark County Comprehensive Plan.

This application seeks preliminary plat, a road modification and related approvals for a 21-Lot residential Tier II infill subdivision on approximately 2.5 acres zoned R1-6. The property consists of one parcel (parcel number 189774) generally located on the south side of NE 114<sup>th</sup> Street approximately 120 feet east of NE 43<sup>rd</sup> Avenue. The site is within Vancouver's Urban Growth Area, the territory of the Sherwood Neighborhood Association, Park Improvement District 8, the Fire District 5, the Hazel Dell Subarea Traffic District, and the Battle Ground School District. Clark Regional Waste Water District provides water, and Clark Public Utilities provides sewer service to the area.

As currently configured, there are no structures on the property. All of the surrounding parcels are similarly zoned, *i.e.*, R1-6 (with a UL plan designation) and developed with single-family residences. Access will be via a single private cul-de-sac road extending south off of NE 114<sup>th</sup> Street (Tract A). The private road is proposed with a detached 5-foot wide sidewalk located in an easement, with a 4-foot wide planter strip. The private road has been proposed with a 24-foot wide pavement section within a 30-foot wide tract, which allows on-street parking along one side, consistent with Standard Drawing 17A (Urban Private Road). The R1-6 zoning regulations require all lots to be at least 4,000 sf in area when townhomes are proposed. As currently configured, the townhomes will be joined as double unit buildings (duplexes). The applicant's circulation model assumes that access will be to and from the east via NE 114<sup>th</sup> Avenue, with no trips to or from the west, where the street is currently blocked by bollards at the eastern end of the Gaya Estates Subdivision. Staff recommends that this applicant remove the bollards and extend the NE 114<sup>th</sup> Avenue street improvements approximately 30 feet to the west from the property to connect with the eastern terminus of the improved street at the east end of Gaya Estates. The applicant objects to this requirement.

There do not appear to be any sensitive lands issues associated with this development; however, there is a sensitive (state threatened) plant species in the southeast corner of the property (Western Wahoo) that must be protected from encroachment by fencing. The only other issue is the need for a road modification due to the proximity of the proposed private road and the existing driveway for the parcel northeast of this site (parcel no. 189806). This proposal will convert parcel no. 189806 into a corner lot, and the Development Code requires 50 feet of separation between this lot's driveway and the new proposed private road. The actual distance will be 15 feet. The applicant applied for the appropriate road modification (Exs. 16 & 18), and engineering staff recommended approval (Exs. 19 & 22).

The application includes a preliminary plat (Ex. 5), notes from the August 14, 2008 preapplication conference (Ex. 6, tab 3), a preliminary stormwater design report and plan (Ex. 6, tabs 17 & 19), a traffic analysis (Ex. 6, tab 15), water and sewer service provider letters (Ex. 6, tabs 11 & 12, respectively), a road modification request (Exs. 16 & 18), information from an October 30, 2008 neighborhood meeting (Ex. 6, tab 9), habitat and wetland predetermination reports (Ex. 6, tabs 13 & 14, respectively), a botanical assessment (Ex. 11), a revised plan (Ex. 13), a concurrency improvement volunteer letter (Ex. 17), and a slope stability analysis (Ex. 6, tab 16).

### **III. Summary of the Local Proceeding and the Record:**

A preapplication conference for this subdivision was requested on July 24, 2008 and held August 14, 2008 (Ex. 6, tab 3). An application was submitted on January 28, 2009 (Exs. 5 & 6) and was deemed fully complete on February 13, 2008 (Ex. 7). From this sequence, this development is deemed vested as of July 24, 2008. Notice of the Type III application and an April 23, 2009 public hearing on the application was mailed to property owners within 300 feet and the Sherwood Neighborhood Association on March 26, 2009 (Exs. 8 & 9). Notices of the application and hearing were also posted on and near the site on April 8, 2009 (Exs. 15 & 20). Notice of the April 23, 2009 hearing date and the SEPA Determination of Mitigated Nonsignificance (MDNS) were published in the Columbian on April 8, 2009 (Ex. 23). The County received no appeals and only one comment on the SEPA Determination by the submission deadline of April 22, 2009 – a

letter from Washington Department of Transportation (Ex. 24). Staff issued a comprehensive report on the project on April 23, 2009 (Ex. 21) recommending denial due solely to the need for a road modification. While the applicant had by that time already submitted a road modification application (Ex. 16 & 18), staff had not been able to review it or make a recommendation on the merits before the staff report was issued. However, engineering staff subsequently reviewed the road modification and recommended approval (Exs. 19 & 22).

At the commencement of the April 23<sup>rd</sup> hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Richard Daviau, County planning staff on the project, David Botamini, engineering staff, and David Howe, critical areas biologist, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. David Rosenberger, with Minister & Glaeser Surveying, represented the applicant, described the project, explained details and responded to questions. There was one comment letter in the record from a member of the public concerning preservation of the mature trees on the site (Ex. 10), and at the hearing testimony was received from Pete VanNortwick, Scott Slamp, Marsha Pedersen and Katie Bartlett, all of whom live across NE 114<sup>th</sup> Street and/or in the near-by Gaya Estates Subdivision. These witnesses all testified that they did not want the bollards removed from the NE 114<sup>th</sup> Street right-of-way or the street connected. They also expressed concerns about the lot sizes (~4,000 sf) and development type (attached dwellings) being out of character with the surrounding 6,000 sf lots and detached single-family homes. No one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the April 23<sup>rd</sup> hearing and took the matter under consideration.

#### **IV. Findings:**

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings.

**A. Issues raised in hearing testimony:** Several neighbors to the property testified in opposition to the proposal, and the applicant objected to several of staff's recommended conditions. The Examiner adopts the following findings in response to each:

**1. Neighbor Issues:** Neighbors to the subject site, Pete VanNortwick, Scott Slamp, Marsha Pedersen and Katie Bartlett, collectively argued that this project's lot sizes (~4,000 sf) and development type (attached dwellings) were out of character with the surrounding 6,000 sf lots and detached single-family homes. While this is true, 4,000 sf lots are allowed in the R1-6 zone for attached single-family dwellings. While there is a question about whether the revised site plan (Ex. 13) actually meets this requirement, 4,000 sf lots are allowed. The appearance of the structures, whether the

look like typical apartments, duplexes, or multi-plexes, is not an issue that is addressed by the County's subdivision approval standards. Consequently, appearance is not an issue the Examiner is authorized to address, and this issue cannot serve as a basis for conditioning or denying the proposal. Moreover, there is a presumption that, by allowing 4,000 sf lots in the R1-6 zone, the Board of Commissioners intended to increase the residential density and diversity of housing types in the County's urban area. Consequently, the resulting density of 9.7 units per acre is allowed.

2. Applicant's issues: The applicant's representative, David Rosenberger, raised several objections to staff's recommendation. First, Mr. Rosenberger asserted that the failure of parcel no. 189806 to meet the 50-foot driveway spacing requirement cannot be attributed to this subdivision, nor can the County require this development to ensure compliance with the spacing requirement or obtain a road modification to address it. As a preliminary matter, the point is moot since the developer has already applied for a road modification to address this deficiency (Exs. 16 & 18), and staff has recommended approval (Ex. 19). More to the point, the approval this subdivision will place parcel no. 189806 into noncompliance with the driveway spacing requirement, thus this development creates the problem. Therefore, it is appropriate that this development also solve the problem, which it has by obtaining a road modification. As discussed more fully below, the road modification is approved, and this objection is rejected.

Second, Mr. Rosenberger objects to the recommendation in the staff report (Ex. 21) that this development complete street improvements (curb, gutter, sidewalk and pavement) to NE 114<sup>th</sup> Street west of the property to the street's current terminus at the east end of Gaya Estates. This involves approximately 30 feet of off-site street improvements plus the removal of the bollards and relocation of a utility pole from out of the right-of-way. The neighbors also were unanimous in their opposition to this requirement. This off-site improvement requirement implicates RCW 82.02.020, which prohibits the County from imposing any exaction, fee or improvement requirement that is not necessitated as a direct result of the development. The applicant asserts that the site obtains adequate transportation connections and cross circulation by the extension and improvement of NE 114<sup>th</sup> Street to the east of the site to NE 50<sup>th</sup> Avenue, which also requires off-site improvements. According to the applicant, nothing about this development creates the need for additional off-site improvements westward to Gaya Estates. Moreover, the intervening property (parcel no 189220), which abuts the 30-foot street segment in question was approved for a short-plat in 2006 (the Johnson Short Plat, PLD 2006-112) and was conditioned with these same street improvements. It appears that such a frontage improvement requirement would be justified for the short plat of parcel no 189220, which it abuts, as an on-site improvement necessitated as a direct result of the development of that parcel. If that is true, which appears to be the case, then it is difficult to argue under RCW 82.02.020 that the same improvements are also necessitated as a direct result of this development that does not abut the road segment to be improved. Consequently, the Examiner agrees with the applicant that this off-site street improvement does not appear to be justified under RCW 82.02.020.

Finally, the applicant objects to staff's position that all lot areas need to be recalculated to exclude the sidewalk (currently contained in an easement) and achieve the 4,000 sf minimum lot size for each lot. The applicant asserts that, as a private road, sidewalks are not required, and even if they are, they may be contained in easements. The applicant also asserts that including the sidewalks as part of each lot area



calculation is good for the development and the neighbors because it allows the street to be over-sized, allows on-street parking and a 4-foot wide planter strip. Staff agrees that these design elements are good for the development and the neighbors, but that the only consequence of excluding the sidewalk from the lot area calculations would be the loss of one lot. According to staff, the developer has two options:

- a) Maintain the current 4,000 sf lot sizes, move the sidewalk out of the lot areas and into the private street tract (Tract A), but eliminate the planter strip and make the sidewalk curb-tight; or
- b) Move the sidewalk out of the lot areas and into the private street tract (Tract A), maintain the 4-foot planter strip and eliminate one lot to increase incrementally all lots to at least 4,000 sf.

Even though the applicant's plan is a good one, produces a good result, mitigates impacts on the neighbors and responds to their concerns, the Examiner is bound by the Development Code and its many overlapping and competing requirements. First, it is relatively clear that private roads serving up to 100 lots in the urban area are allowed. CCC 40.350.030(B)(10). The internal private road is not an Infill A or an Infill B road, but a strictly private road. Also, it appears that sidewalks may be placed within easements only when necessary due to some natural feature of the lot, e.g., significant trees, rock outcroppings, steep slopes, etc. or because of unusual lot shapes. CCC 40.350.030(B)(3)(a). No such justification exists here; consequently, the definition of "lot area" requires that the street tracts, including private roads, include the sidewalks, which means that sidewalks are necessarily excluded from the lot area calculations. CCC 40.100.070. The Examiner assumes these code provisions apply to required sidewalks, as opposed to purely gratuitous sidewalks. The Examiner finds that a sidewalk is required for this urban private road pursuant to Standard Drawing 17A. The only logical conclusion to be drawn from Standard Drawing 17A is that it was adopted by the BOCC to be a legally binding design standard for urban private roads. Although the meaning to be drawn from this collection of code requirements is less than clear, the Examiner concludes that the lot area calculations in this development must exclude the sidewalk. Thus, the Examiner agrees with staff about the developer having the two basic options (a) or (b) stated above. The final plat shall comply with these requirements, remove the sidewalk from the individual lots and into the private street tract (Tract A), and demonstrate that each lot is at least 4,000 sf in area.

B. Approval Criteria: The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

**LAND USE:**

Finding 1 – Density: The applicant is proposing to divide approximately 2.5 acres into 21 residential lots with attached units in the R1-6 zone. Maximum density is based on gross site area minus all public and private roads. The maximum allowed density for the proposed Tier II infill plat is 9.7 units per acre. See CCC Table 40.260.110-2. The applicant indicates that the proposed road area is 13,939 sf (12,399 sf for the private road tract and 1,540 sf for the infill B road). The current plan excludes the sidewalk from the street tract, which is not allowed. See Finding 13 and CCC 40.350.030(B)(3)(a). The applicant shall revise the plan and provide detailed density calculations in which sidewalk area is included in Tract A and

excluded from the individual lots. The total number of lots may need to be adjusted to achieve the required density requirements. See Condition A-1b.

Finding 2 - Tier II Infill Standards: Pursuant to CCC Table 40.260.110-4, a minimum lot area of 4,000 sf is required. The applicant's revised plans (Ex. 13) shows all lots as being more than 4,000 sf, but includes the sidewalks in an easement in the lot area calculations. Sidewalks on one side of the street are required for urban private roads. See Standard Drawing 17A. Sidewalks cannot be included in easements unless there is some unique feature of the property that justifies including a sidewalk in an easement. See CCC 40.350.030(B)(3)(a). As such, the sidewalks along the private road in this plat shall be included as part of the street tract and excluded from lot area calculations. To achieve the required 4,000 sf minimum lot size, the applicant may have to eliminate the 4-foot planter strip, eliminate a lot, or revise the plat in some other way so that each lot is at least 4,000 sf in area. See Conditions A-1b, A-3d & D-1. Tier II infill standards require the applicant to hold a public meeting to offer owners of property adjacent to the affected property an opportunity to participate in the development process pursuant to CCC 40.260.110(I)(1). The applicant held the neighborhood meeting on October 30, 2008, provided a copy of the notice, the development plan from the meeting, the mailing list, meeting summary, and the sign-in sheet (Ex. 6, tab 9). From this the Examiner concludes the applicant complied with the neighborhood meeting requirement.

Finding 3 – Setbacks: Although details of home construction on the proposed lots have not been provided nor are they required, the following setbacks apply and shall be met by the plat and all lots in the development:

- 18-foot front/side setback for garage entrances
- 10-foot front setback for other buildings
- 10-foot infill rear setback for Lots 1 through 5
- 5-foot standard side and rear setback

Building setbacks are defined as the minimum horizontal distance between the property line and the foundation wall, exclusive of other building elements.

Finding 4 - State Platting Standards (RCW 58.17): With conditions of approval, staff concluded that the proposed subdivision will make appropriate provisions for public health, safety, and general welfare of the community. Connection of the proposed residences to public water and sewer, as well as treatment of any increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact Fees will also be paid as this development's proportionate share of the costs of school, park and transportation provisions, maintenance and services. The Examiner agrees.

#### **SEPA CHECKLIST REVIEW:**

Finding 5 - Threatened plant species: The site is near a recently discovered a colony of western wahoo (*Euonymus occidentalis*), a state threatened plant species. The plant grows near the southern boundary of the property. Western wahoo is adapted to low-light interior forest conditions found in moist draws in westside forests. Staff determined that the proposed development would have negative impacts on the adjacent threatened plant species without proper mitigation. The applicant submitted supplemental information identifying exact plant locations, analyzing existing and proposed future growing conditions and recommending conservation measures (Exs. 11 & 13). Staff reviewed and concurred with the applicant's proposal and

determined that the existing forested buffers will be adequate to protect the threatened plant species on the site, subject to the following SEPA mitigation measures: See Conditions B-4, D-2 & D-9a.

- 1) The applicant shall record a conservation covenant with the Auditor's office adequately protecting the proposed plant protection area identified in Exhibit 13.
- 2) A fence shall be installed along the northern boundary of the plant protection area.

#### **TRANSPORTATION CONCURRENCY:**

Finding 6 - Trip Generation: The applicant submitted a traffic study analyzing a 21-lot Tier II Infill Subdivision pursuant to CCC 40.350.020 (D)(1) (Ex. 6, tab 15). The traffic study estimated the weekday a.m. and p.m. peak-hour trip generation to be 15 and 17 new trips, respectively, using nationally accepted data published by the Institute of Transportation Engineers.

Finding 7 - Site Access: Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver experiencing an LOS A condition would see little delay. A driver experiencing an LOS E would see significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver experiencing an LOS F condition would see significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic. Congestion, or concurrency, level of service (LOS) standards are not applicable to site accesses or intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The applicant's traffic study shows that the proposed development will take direct access onto NE 114<sup>th</sup> Street. Once on NE 114<sup>th</sup> Street, trips generated by the proposed development will have indirect access to NE 119<sup>th</sup> Street to the north and NE 50<sup>th</sup> Avenue to the east. The applicant's study indicates that these intersections will have a level-of-service (LOS) C or better in the 2011 build out horizon. The study shows that the LOS was evaluated in the a.m. and p.m. peak hour traffic conditions in existing and build-out scenarios, meeting the requirements of CCC 40.350.020 (G)(1)(d) & (f). County Staff concurred with the traffic study's findings, and so too does the Examiner.

Finding 8 – Concurrency: The proposed development is required to meet the standards in CCC 41.350.020(G) for corridors and intersections of regional significance within two miles of the proposed development. The applicant's study shows a one-mile radius study area that includes regionally significant unsignalized and signalized intersections. County Staff performed an evaluation of the operating levels, travel speed and delay standards in the County's model. The County's model consists of the study intersections and corridors of regional significance in the development area yielding operating levels, travel speed and delay standards, during the p.m. peak hours with a LOS better than the minimum allowable LOS E for unsignalized intersections with the exception of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street. The following summarizes staff's findings and recommendations:

NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street: The intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street will operate at a LOS F in the 2011 concurrency horizon and is anticipated to meet signal warrants, thereby creating a concurrency failure. The failing approaches appear to be in the eastbound and westbound directions. The applicant's traffic study indicates there are vehicle trips assigned to the failing approaches in the NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street intersection. As such, the applicant is responsible for mitigation and, failing that, this proposal is subject to denial due to the failing LOS for this intersection to which this development contributes trips. In response, the applicant volunteered mitigation at the intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street (Ex. 17) to offset the impacts of the Mo Hollow Subdivision development. Concurrency Staff reviewed the proposed mitigation and concurred with the applicant's recommendation of a northbound right-turn lane at the intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street. Staff recommends accepting the offered mitigation as the way to achieve concurrency.

The Examiner agrees, and the applicant shall construct a northbound right turn pocket at the intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street to offset the transportation impacts of the proposed Commons at Salmon Creek development. The improvement shall include a 75-foot long, 12-foot wide northbound right-turn lane with a 50-foot long taper, and signing and striping associated with this improvement. Alternatively, as design details become refined and better known, the applicant may propose and County staff may allow alternative or additional mitigation. Mitigations shall be constructed and operational prior to occupancy of any building. See Conditions A-2a, E-1 & F-1. On this basis, the Examiner finds that this development can comply with adopted Concurrency Standards for unsignalized intersections.

The County's model also evaluated the operating levels, travel speeds and delay times for the regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the 2011 build-out horizon. As such, the Examiner finds that this development can comply with adopted Concurrency Standards. The County incurs costs to analyze the proposed development's impacts using the concurrency model, which the applicant shall reimburse. See Condition A-2b.

#### **TRANSPORTATION SAFETY:**

Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development pursuant to CCC 40.350.030(B)(6), which provides that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Finding 9 - Traffic Signal Warrants: The applicant's traffic study determined that the unsignalized intersections that were analyzed will operate at acceptable levels in the build-out year. County staff concurred with the applicant's findings and so too does the Examiner. Because these unsignalized intersections will operate at an acceptable level, a signal warrant analysis is not necessary, and no further analysis is required.

Finding 10 - Turn Lane Warrants: Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The applicant's traffic study reviewed the site access for turn lane warrants and found that with the low traffic volumes, turn lanes would not be warranted at the studied intersection. County staff agreed with the traffic study findings, and on that basis so too does the Examiner.

Finding 11 - Historical Accident Situation: The applicant's traffic study analyzed the accident history within the vicinity of the site. The intersection accident rates did not exceed thresholds that would warrant additional analysis; therefore, further analysis is not required.

## **TRANSPORTATION**

Finding 12 - Road Circulation Plan: Staff recommended that the barricade on NE 114<sup>th</sup> Street, west of the proposed subdivision, be removed to allow full east-west cross-circulation along NE 114<sup>th</sup> Street. The applicant indicates that NE 43<sup>rd</sup> Avenue and NE 114<sup>th</sup> Street are 17 to 18 feet wide at this point. County staff verified that the road is 20 feet wide with a curb-tight sidewalk and a rolled curb, which meets the 20-foot width requirement. County staff reports that the same barricade removal and street improvement requirements were imposed as conditions on the Johnson Short Plat (PLD2006-00112) on parcel #189822 west of the project. As discussed above, the Examiner finds that the imposition of the same off-site improvement requirements on this development appears to exceed what is allowed by RCW 82.02.020 because it does not appear to be necessitated as a direct result of this development. For the segment of NE 114<sup>th</sup> Street east of this site, CCC 40.350.030(B)(6)(b)(1) requires a minimum unobstructed and paved roadway 20 feet wide, which the developer shall construct as the minimum improvement needed to serve the development. See Condition A-3b. Because the applicant has volunteered it (Ex. 16), this development will also provide an easement for parcel no. 189806 to use the internal private road to access NE 114<sup>th</sup> Street. See Condition A-3g.

Finding 13 – Roads: NE 114<sup>th</sup> Street is classified as an Urban Local Residential Access road, for which the minimum half-width frontage improvements include a 23-foot right-of-way, 14-foot paved width, sidewalk, curb, and gutter. The road approach shall comply with table 40.350.030-4, which was recently revised. The applicant shall also provide any necessary tapers associated with the connection of the paved sections of NE 114<sup>th</sup> Street. See Condition A-3c. According to CCC 40.350.030(B)(3)(a) the internal sidewalk is allowed within an easement only if required to protect some natural feature, e.g., significant trees, rock outcroppings, steep topography, etc., or because of irregular lot configuration. Neither situation exists here, so all sidewalks shall be included in the street tract and excluded from the lot area calculations. See Condition A-3d.

Finding 14 – Road Modification: According to CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall be separated a minimum of 50 feet from the intersecting

property lines, or where this is impractical, the driveway may be 5 feet from the property line away from the intersection, or combined as a joint use driveway at the common property line. This development will convert parcel no. 189806 into a corner lot and subject it to this driveway spacing requirement in CCC 40.350.030 (B)(4)(b)(1)(b) relative to the intersection of the new private road with NE 114<sup>th</sup> Street. This spacing requirement cannot be met given the minimal separation this development will create. To remedy the situation, the applicant requested a road modification (Exs. 16 & 18) pursuant to CCC 40.550.010(A)(1), which provides that:

Modifications to the standards contained within Chapter 40.350 may be granted in accordance with the procedures set out herein when any one (1) of the following conditions are met:

- a. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.
- b. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship.
- c. An alternative design is proposed which will provide a plan equal to or superior to these standards.
- d. Application of the standards of Chapter 40.350 to the development would be grossly disproportional to the impacts created.

The applicant asserts the first circumstance (unusual hardship) as justification for a modification to the 50-foot driveway spacing requirement in this case. There do not appear to be any safety concerns, and the private driveway will be owned and maintained by a homeowners' association. The applicant offers easement rights to the owner of parcel no. 189806 in the event that any safety concerns arise (Ex. 16). Staff reviewed the road modification request and recommended approval (Ex. 19 & 22), and the Examiner concurs with staff's assessment. The road modification is approved, subject to the applicant granting an easement (ingress & egress) to parcel no. 189806. See Condition A-3g.

Finding 14 - Sight Distance: The applicant submitted a sight distance analysis dated October 8, 2008 (Ex. 6, tab 15) that indicates sight distance requirements are not met to the west where NE 114<sup>th</sup> Street and NE 43<sup>rd</sup> Avenue come together. Staff from Public Works checked the intersection and concluded that a 90 degree bend in a road does not qualify as an intersection that is subject to the County's intersection sight distance standards. For this reason, staff could not conclude that sight distance requirements in CCC 40.350.030(B)(8) are not met where these two streets meet. CCC 40.350.030(B)(8) establishes minimum sight distance requirements at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles and similar structures shall not be allowed to obstruct required sight distance at any proposed driveway approach or intersection. See Condition A-3f.

#### **STORMWATER:**

Finding 15 – Applicability: The project is subject to the Stormwater and Erosion Control Ordinance (CCC 40.380). Projects that meet the eligibility requirements of

CCC 40.260.110(B)(1) but create less than 5,000 sf of new impervious surface are exempt from CCC 40.380.040(b) and CCC 40.380.040(C). Houses that use roof downspout systems to infiltrate roof runoff may be deducted from area calculations. The proposed amount of new impervious area that will be created is greater than 5,000 sf. As such, CCC 40.380.040(b) and CCC 40.380.040(C) apply and shall be met. The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria in CCC 40.380.050. This project is subject to and shall comply with the erosion control ordinance.

Finding 16 - The Applicant's Stormwater Proposal: The applicant submitted a preliminary stormwater report providing StormFilter (Contech Stormwater Solutions) as the means of water quality treatment, and infiltration is proposed for water quantity management (Ex. 6, tabs 17 & 19). An on-site infiltration test produced infiltration rates from 92 to 450 inches per hour. A design infiltration rate of 10 inches per hour is proposed, and an emergency overflow is also proposed. The facilities are proposed to be privately owned and maintained. According to CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be a minimum of three feet above the seasonal high water or an impermeable soil layer per CCC 40.380.040(C)(3)(c). See Condition A-4a. Deviations from standard detail drawings D16.0 and D16.1 shall be stamped by a suitably qualified Washington licensed professional geotechnical engineer. See Condition A-4b. According to CCC 40.380.040 (H)(3)(b), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspecting privately maintained facilities. See Condition A-4c. During construction, the infiltration rates shall be verified in the field and corresponding laboratory testing shall also be performed. See Condition C-1. According to the applicant's water quality calculations, pervious area was included in the sizing of the flow based water quality swale. The water quality facility shall be sized by considering the new proposed impervious areas and not including the pervious areas. See Condition A-4d. The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 5 inches. The 10-year/24-hour storm event precipitation depth is 3 inches and the 2-year/24-hour storm event precipitation depth is identified as being 2 inches.

#### **GEOLOGIC HAZARD AREA:**

Finding 17 - Applicability: All development activities in or adjacent to (within 100 feet) a geologic hazard area shall comply with CCC chapter 40.430. The proposed development may be within 100 feet of slope instability and adjacent to a severe erosion hazard area (Ex. 6, tab 16). Consequently, CCC chapter 40.430 may apply to this development.

Finding 18 - Geologic Hazard Issues: The applicant submitted a preliminary geotechnical report that is dated July 14, 2008 (Ex. 6, tab 16). The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. See Conditions A-5a & D-9f. A building permit is required for retaining walls taller than 4 feet tall or when groundwater is surcharged adjacent to the wall. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities. See Condition A-5b. During

construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns. See Condition C-2. On this basis, the Examiner concludes that the proposed preliminary geotechnical engineering plan, subject to conditions identified above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

#### **FIRE PROTECTION:**

Finding 19 - Fire Marshall Review: The Fire Marshal's Office reviewed this application and proposed conditions of approval. The development shall comply with these conditions. Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes and additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition E-2.

Finding 20 - Fire Flow/Hydrants: Fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available within 1,000 feet of the property line. Fire hydrants are required for this application. The indicated existing fire hydrant is adequate. See Condition D-3.

Finding 21 - Fire Apparatus Access/Turnaround: The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. All roads shall have an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. See Condition D-4. A fire apparatus turnaround is required and as shown appears to meet the Clark County Road Standards.

#### **HEALTH DEPARTMENT:**

Finding 22 – Health Department Review: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). See Condition D-5.

#### **WATER & SEWER SERVICE:**

Finding 23: The applicant has submitted utility reviews from Clark Regional Wastewater and Clark Public utilities indicating that public sewer and water is available to the subject site. All lots in the proposed plat must connect to an approved public sewer and water system as well as the house located on the abutting property to the northeast (parcel no. 189806). A copy of the final acceptance letter from the sewer and water purveyor should be submitted to the Health Department with the final plat mylar. The applicant shall comply with all of the purveyor's requirements. See Condition D-6.



**IMPACT FEES:**

Finding 24: The site is located in Park Improvement District 8, the Battle Ground School District, and the Hazel Dell Subarea Traffic District. All new homes built on the lots in this development (21 lots) will impose new service demands on the local schools, parks and transportation system. Therefore, all 21 lots in this development are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand, payable at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Facility Plan District No. 8, which has a total PIF of \$1,800 per lot (\$1,360 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the Hazel Dell Subarea Traffic District, which has a TIF of \$3,668.66 per lot
- (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. A note stating these requirements shall be placed on the final plat and is applicable to all of the new homes (21 homes). See Conditions D-7e & E-3.

**SEPA DETERMINATION**

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. See Conditions B-4, D-2 & D-9a. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Mitigated Determination of Nonsignificance for this project on April 8, 2009 (Ex. 23). One timely comment and no appeals were received by the comment and appeal deadline of April 22, 2009. That comment from Washington Department of Transportation (Ex. 24) does not require a separate response; therefore, the SEPA determination is final.

**V. Decision and Conditions:**

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the applicant's proposal, the revised preliminary plat and related plans (Exs. 5, 6, 13 & 17). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

<b>A</b>	<b>Final Construction Plan Review for Land Division Review &amp; Approval Authority: Development Engineering</b>
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Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

**A-1 Final Construction Plan** – The developer shall apply for and obtain County approval of a final construction plan in conformance with CCC chapter 40.350 and the following additional requirement:

- a. Archaeology - A note shall be placed on the face of the final construction plans "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- b. The developer shall provide detailed density calculations that demonstrate that each lot is at least 4,000 sf in area and the sidewalk is included in the private road tract (Tract A). The total number of lots may need to be adjusted to meet maximum density limit of 9.7 units per acre. See Finding 1.

**A-2 Transportation:**

- a. The developer shall submit a signing and striping design for review and approval to the Public Works Transportation Division. This design shall show signing and striping and all related features for required frontage and offsite road improvements. The offsite road improvements may include signing and striping for the NE 119<sup>th</sup> Street/NE 50<sup>th</sup> Avenue intersection. The developer shall obtain a Work Order with Clark County to reimburse the County for the signing and striping changes needed along the frontage of this development and any offsite road improvements.
- b. The developer shall reimburse the County for the cost of concurrency modeling in an amount not to exceed \$2,000.

**A-3 Final Transportation Plan (On-Site & Frontage)** - The developer shall submit and obtain County approval of a final transportation design in conformance with chapter CCC 40.350 and the following additional requirements:

- a. The existing barricade to the west of the subject parcel on NE 114<sup>th</sup> St. shall be removed for the purpose of allowing cross circulation.
- b. Per CCC 40.350.030(B)(6)(b)(1), all roads providing access to lots in this development, whether public or private, shall have a minimum unobstructed and paved roadway width of 20 feet. The Developer shall construct improvements to NE 114<sup>th</sup> Street to the east of this site.
- c. The minimum half-width frontage improvements shall include a 23-foot right-of-way, 14-foot paved width, sidewalk, curb, and gutter. The road approach shall comply with table 40.350.030-4 which was recently revised. The developer shall also provide any necessary tapers associated with the connection of the paved sections of NE 114<sup>th</sup> Street.
- d. The developer shall comply with CCC 40.350.030(B)(3)(a) by including all sidewalks within the street tracts, and excluding them from area calculations for the individual lots.

- e. Except as allowed by an approved road modification, CCC 40.350.030 (B)(4)(b)(1)(b) requires all corner lot driveways shall be a minimum separation of 50 feet from the intersecting property lines or where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or as a joint use driveway at this property line.
- f. All intersections and driveways constructed or affected by this development shall meet with the applicable site distance requirements in CCC 40.350.030(B)(8).
- g. The developer shall grant an easement for ingress & egress to parcel no. 189806 to use the private road to access NE 114<sup>th</sup> Street.

**A-4 Final Stormwater Plan** - The developer shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC chapter 40.380 and the following additional requirements:

- a. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. The base of the infiltration facilities shall be at a minimum of three feet above the seasonal high water or an impermeable soil layer per CCC 40.380.040(C)(3)(c).
- b. Modifications made to standard details D16.0 and D16.1 shall be stamped by a professional engineer that is proficient in geotechnical engineering.
- c. Per CCC 40.380.040 (H)(3)(b), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection of privately maintained facilities.
- d. The water quality facility shall be sized by considering the new proposed impervious areas but not including the pervious areas.

**A-5 Geologic Hazard Area** - The developer shall apply for and obtain County approval of a final geotechnical engineering plan designed in accordance with CCC chapter 40.430 and the following additional requirements:

- a. The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts.
- b. A building permit is required for retaining walls greater than 4 feet tall or when groundwater is surcharged adjacent to the wall. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities.

**A-6 Erosion Control Plan** - The developer shall apply for and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.

- A-7 Excavation and Grading** - Excavation/grading shall be performed in compliance with Appendix Chapter J of the 2003 International Building Code (IBC); and, drainage facilities shall be provided that, among other things, ensure that building foundations and footing elevations can comply with CCC 14.04.252.

<b>B</b>	<b>Prior to Construction of Development</b> <b>Review &amp; Approval Authority: Development Inspection</b>
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Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.
- B-2 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- B-3 Erosion Control** - Erosion control facilities shall not be removed without County approval.
- B-4** A fence shall be installed along the northern boundary of the plant protection area in the southern part of the development property. See Finding 5.

<b>C</b>	<b>Provisional Acceptance of Development</b> <b>Review &amp; Approval Authority: Development Inspection</b>
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

- C-1** The installation of infiltration systems shall be observed and documented by a Washington licensed professional engineer proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference. See Finding 16.
- C-2** During construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns. See Finding 18.

<b>D</b>	<b>Final Plat Review &amp; Recording</b> <b>Review &amp; Approval Authority: Development Engineering</b>
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1** The developer shall revise the plat to show the actual lot sizes of each lot (excluding sidewalks) to be at least 4,000 sf. See Finding 2.

- D-2** The developer shall record a conservation covenant with the Auditor's office adequately protecting the proposed plant protection area. See Finding 5.
- D-3** Water mains supplying fire flow and fire hydrants shall be installed, approved and operational. See Finding 20.
- D-4** The developer shall provide roads with an unobstructed vertical clearance of not less than 13.5 feet and an all weather driving surface capable of supporting the imposed loads of fire apparatus. See Finding 21.
- D-5** Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county, e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy. The Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer.
- D-6** All lots in the proposed plat must connect to an approved public sewer and water systems. A copy of the final acceptance letter from the sewer and water purveyor shall be submitted to the Health Department with the final plat mylar. The developer shall comply with all requirements of the purveyor.
- D-7 Developer Covenant** – A "Developer Covenant to Clark County" shall be submitted for recording to include the following:
- a. Critical Aquifer Recharge Areas - "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
  - b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
  - c. Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this development. Any private access street shall remain a private street unless it is upgraded to public street standards at the expense of the developer or abutting lot owners to include hard surface paving and is accepted by the county for public ownership and maintenance."
  - d. Responsibility for Stormwater Facility Maintenance: "For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall

approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060."

- e. Impact Fees: "In accordance with CCC 40.610, the following impact fees shall be paid for each new dwelling in this subdivision at the time of building permit issuance (21 lots): (1) Park Facility Plan District No. 8 park impact fee of \$1,800 per lot (\$1,360 for acquisition and \$440 for development); (2) Hazel Dell Traffic Subarea traffic impact fee of \$3,668.66 per lot; and (3) Battle Ground School District school impact fee of \$8,290 per lot. All impact fees shall be paid prior to the issuance of a building permit for each lot and will be recalculated for any building permit applications filed after \_\_\_\_\_. (Insert date 3 years following preliminary plat approval date)."

**D-8 Private Road Maintenance Covenant** – A private road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor, which shall set forth the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations as required by CCC 40.350.030(C)(4)(g).

**D-9 Plat Notes** - The following notes shall be placed on the final plat:

- a. Threatened plant species: "No unauthorized clearing or development activities shall occur within the plant protection area."
- b. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages. Sidewalks are attached except along the frontage of (insert street name) which is detached."
- c. Utilities: "An easement is hereby reserved under and upon the exterior 6 feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior 6 feet along the front boundary lines of all lots adjacent to public streets."
- d. Driveways: "All residential driveway approaches entering public roads shall comply with CCC chapter 40.350."
- e. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: \_\_\_\_\_."

- f. Geo-Hazards: "The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts."
- g. Archaeology (all plats): "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

<b>E</b>	<b>Building Permits Review &amp; Approval Authority: Customer Service</b>
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Transportation Concurrency** – The developer shall ensure that the construction drawings for the construction of a northbound right-turn pocket at the intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street, are submitted for review and approval. The construction drawings shall include a 75-foot long, 12-foot wide north bound right-turn lane with a 50-foot long taper and signing and striping associated with this improvement or other mitigations required or approved by the County
- E-2** Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.
- E-3 Impact Fees:** The following impact fees shall be paid prior to issuance of building permits on each lot in this development:
  - (1) Park impact fee (PIF) for the Park Facility Plan District No. 8, which has a total PIF of \$1,800 per lot (\$1,360 for acquisition and \$440 for development)
  - (2) Traffic impact fee (TIF) for the Hazel Dell Subarea Traffic District, which has a TIF of \$3,668.66 per lot
  - (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. A note stating these requirements shall be placed on the final plat and is applicable to all of the new homes (21 homes).

<b>F</b>	<b>Occupancy Permits Review &amp; Approval Authority: Building</b>
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Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1** The developer shall ensure the construction a northbound right-turn pocket at the intersection of NE 50<sup>th</sup> Avenue/NE 119<sup>th</sup> Street, which shall include a 75-foot long,

12-foot wide north bound right-turn lane with a 50-foot long taper and signing and striping associated with this improvement, or, other mitigations approved by the County. All work shall be performed unless modified by the Public Works Director.

**G Development Review Timelines & Advisory Information**


**G-1 Land Division** - Within 5 years of the effective date of this decision, the developer shall submit to the Planning Director a fully complete final plat consistent with CCC 40.540.070 and the requirements of this preliminary plat approval. Otherwise, this preliminary plat approval shall automatically expire and become null and void.

**G-2 DOE Stormwater Permit** - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:

- a. The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

Date of Decision: May 5, 2009.

By:   
Daniel Kearns,  
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

**Notice of Appeal Rights**

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the



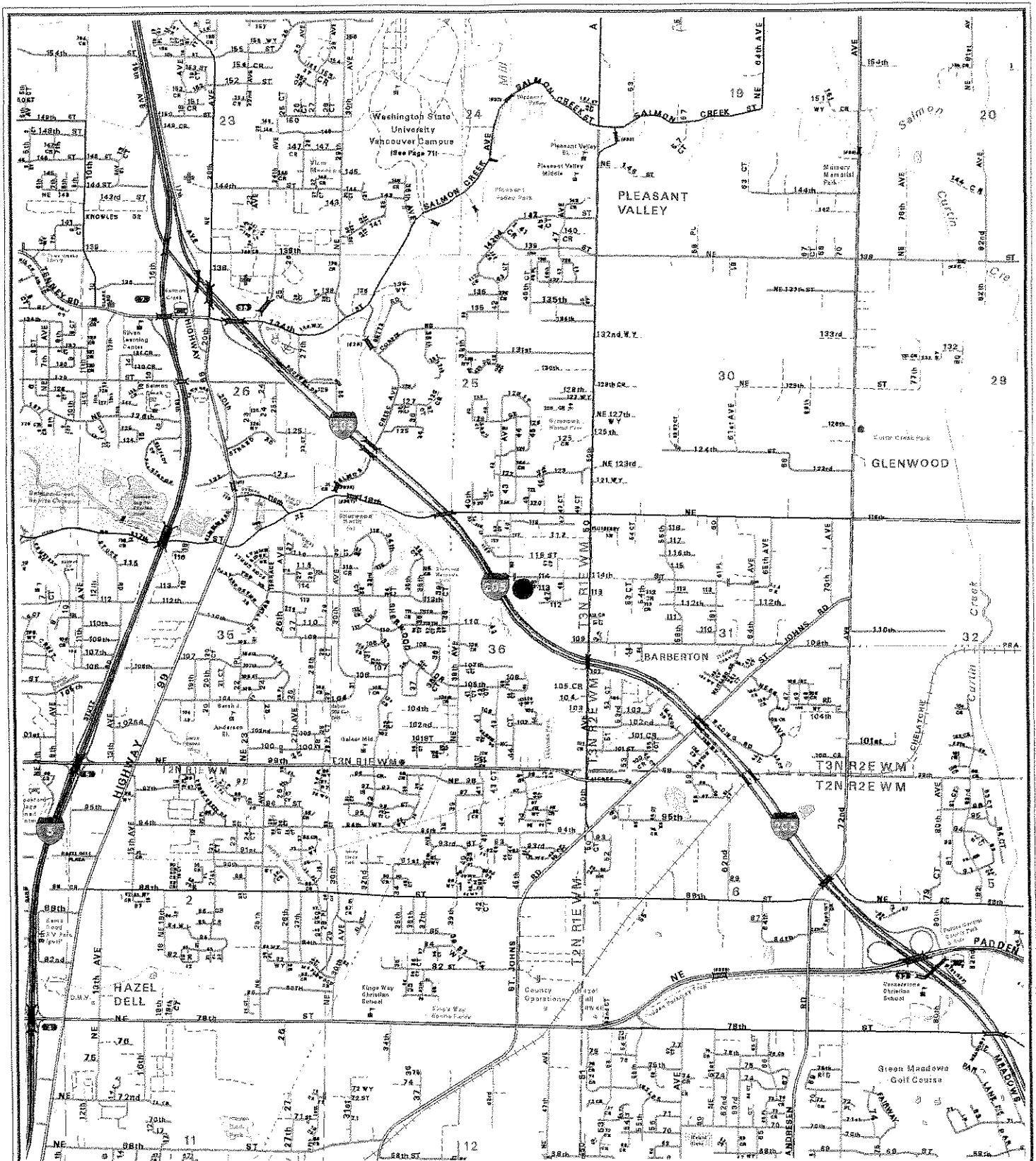
sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 18.600.100(D)(2); and
5. A check in the amount of \$286 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.





File # PLD2009-00007, SN 189774000

Location: T3N R1E SEC 36

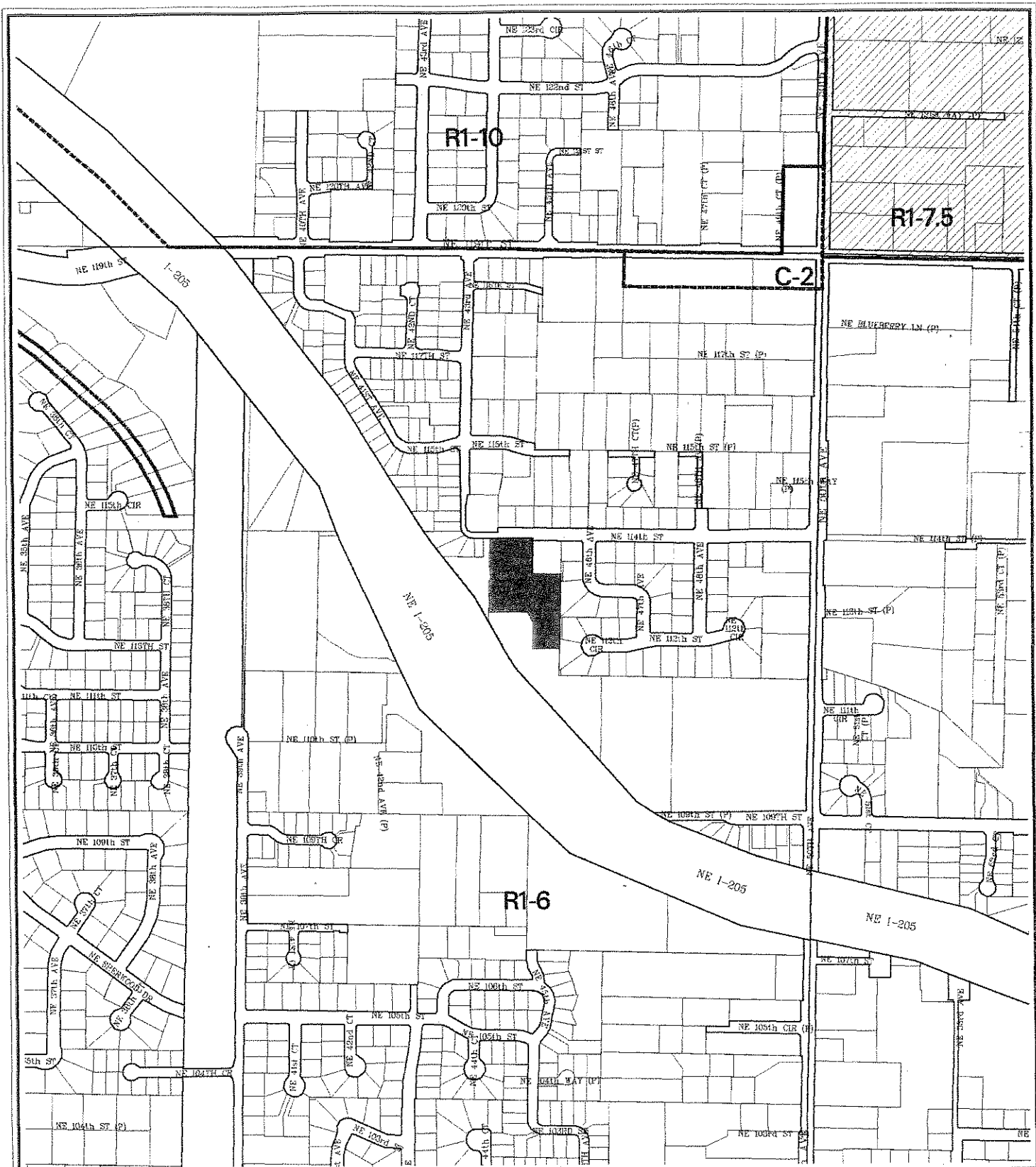
Preliminary Land Division

● Subject Property Location



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File # PLD2009-00007, SN 189774000







Location: T3N R1E SEC 36

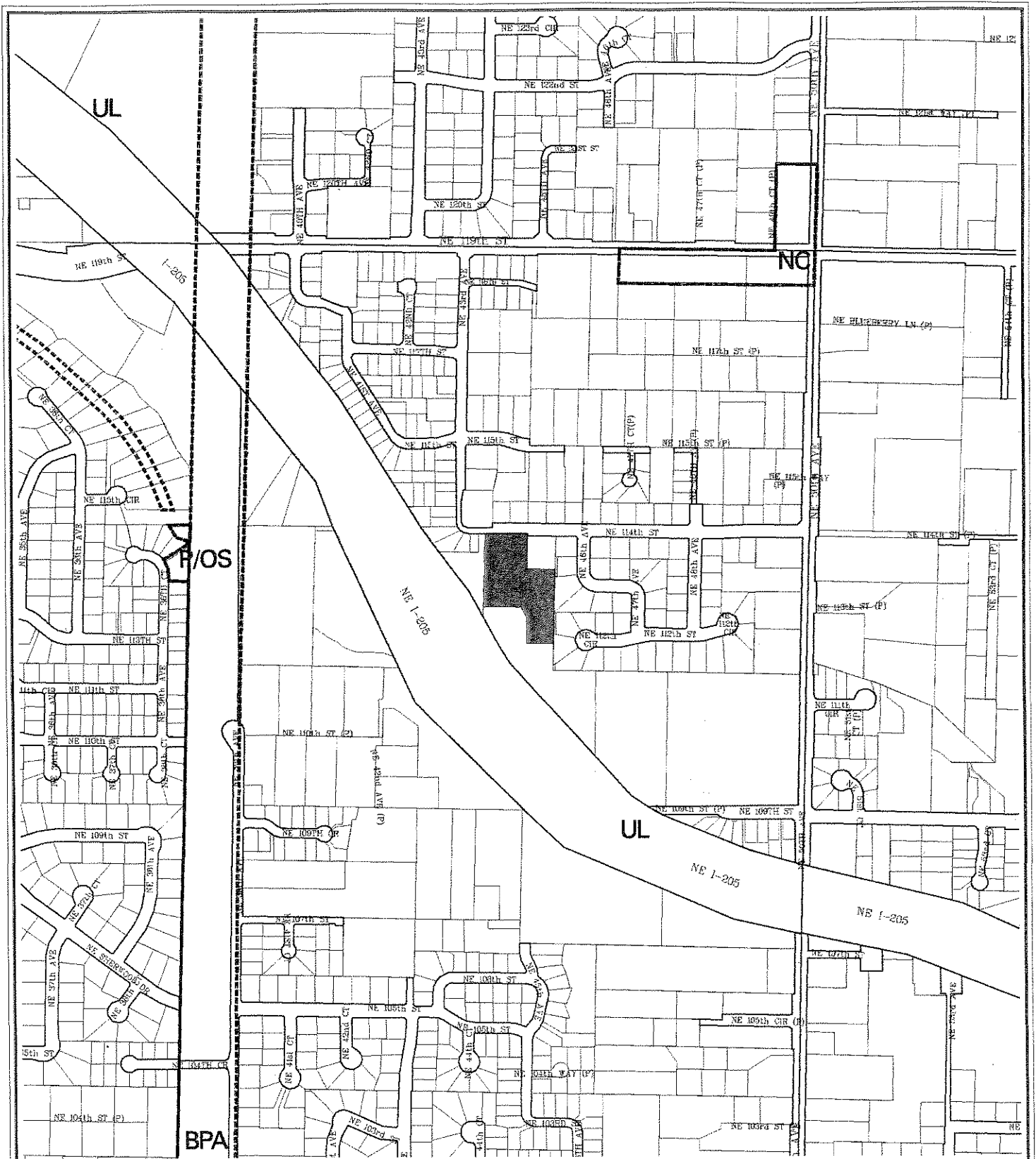
Preliminary Land Division



Ordinance 2009-00007, SN 189774000



-  Subject Property
-  Zoning Boundary
-  Mining Combining District
-  Contingent Zoning
-  Urban Holding-10
-  Urban Holding-20



File # PLD2009-00007, SN 189774000







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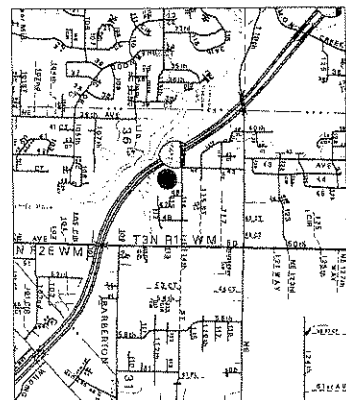
Preliminary Land Division



Clark County Planning Department



-  Subject Property
-  Comp. Plan Boundary
-  Mining
-  Industrial Reserve
-  Open Space/Density Transfer
-  Columbia River Gorge N.S.A.



13  
REVISED  
3/25/09



# HEARING EXAMINER EXHIBITS

**APPLICATION: MO HOLLOW TIER II INFILL SUBDIVISION**

**CASE NUMBERS: PLD2009-00007; SEP2009-00010; GEO2009-00002**

**Hearing Date: April 23, 2009**

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	1/28/09	Applicant, Minister & Glaeser Surveying, Inc.	Preliminary Plats, Conceptual Building Footprints and Proposed Landscaping, Preliminary Stormwater Plan
6	1/28/09	Applicant, Minister & Glaeser Surveying, Inc.	<p>TABLE OF CONTENTS</p> <ol style="list-style-type: none"> <li>1. Table of Contents</li> <li>2. Application Form</li> <li>3. Pre-Application Conference Report</li> <li>4. Developer's GIS Packet</li> <li>5. Narrative</li> <li>6. Approved Preliminary Plats Abutting the Site</li> <li>7. Current Owner's Deed</li> <li>8. BLA2006-00105</li> <li>9. Neighborhood Meeting Information</li> <li>10. SEPA Checklist</li> <li>11. Water Utility Review Letter</li> <li>12. Sewer Utility Review Letter</li> <li>13. Habitat Predetermination</li> <li>14. Wetland Predetermination</li> <li>15. Traffic Analysis</li> <li>16. Slope Stability Analysis</li> <li>17. Preliminary Stormwater Design Report</li> <li>18. Preliminary Boundary Survey</li> <li>19. Preliminary Stormwater Plan</li> <li>20. Proposed Development Plan</li> <li>21. Conceptual Building Footprints and Proposed Landscaping</li> <li>22. Conceptual Floorplans and Elevations</li> </ol>
7	2/18/09	CC Development Services	Fully Complete Determination
8	3/4/09	CC Development Services	Affidavit of Mailing Public Notice
9	3/4/09	CC Development Services	Notice of Development Review Application (Type III) and Public Hearing
10	3/6/09	Steven Redman	Public Comments

11	3/11/09	Applicant, Ecological Land Services, Inc.	Botanical Assessment
12	3/24/09	CC Development Services	Notice of Public Hearing
13	3/25/09	Applicant, Minister & Glaeser Surveying, Inc.	Revised Development Plan, Conceptual Building Footprints and Landscaping Plan
14	4/3/09	Applicant, Minister & Glaeser Surveying, Inc	Concurrency Volunteer Letter
15	4/3/09	Applicant, Minister & Glaeser Surveying, Inc	Affidavit of Posting Land Use Sign
16	4/6/09	Applicant, Minister & Glaeser Surveying, Inc	Admin Road Modification Narrative
17	4/7/09	Applicant, Minister & Glaeser Surveying, Inc	Traffic Mitigation Letter
18	4/7/09	Applicant, Minister & Glaeser Surveying, Inc	Addendum to the Road Mod
19	4/8/09	David Bottamini, Dev Eng	Road Modification Report & Recommendation
20	4/8/09	CC Development Services	Affidavit of Posting Public Notice
21	4/8/09	CC Development Services - Richard Daviau, the Project Planner	Type III Development & Environmental Review, Staff Report & Recommendation
22	4/8/09	David Bottamini, Dev Eng	Engineering Addendum to the Staff Analysis for Mo Hollow Tier II Infill Subdivision
23	4/8/09	CC Development Services	State Environmental policy Act Mitigated Determination of Non-Significance
24	4/15/09	WADOT	Agency Comments
25	4/21/09	Applicant, Minister & Glaeser Surveying, Inc	Proposed Road Sections
26	4/23/09	CC Development Services	Pictures of Power Point Presentation
27			
28			
29			
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Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division  
1300 Franklin Street  
Vancouver, WA 98666-9810